

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2050 of 2007

Tata Memorial Centre

...Petitioner

v/s.

Ayub Mohamed Isaq Shaikh & others

...Respondents

Mr. Sudhir Talsania, Senior Advocate with Mr.
S.V.Uttam i/b. Mulla & Mulla

Mr. Amit Borkar for Respondent no.1
Mr. Nitin Jamdar for Respondent no.2

**CORAM : B.H.MARLAPALLE,J.
DATED : 23rd November, 2007**

P.C.

Heard Mr. Talsania, learned Senior Counsel with
S.V.Uttam for the Petitioner and Mr. Borkar, learned
counsel for respondent no. 1 and Mr.Nitin Jamdar
learned counsel for respondent no.2.

2. This petition under Article 227 of the Constitution
arises from an inter-locutory order passed by the
learned Judge of the Labour Court on 19-6-2003 and
confirmed by the learned Member of the Industrial Court
vide judgement and order dated 26-2-2007 thereby
dismissing the revision applicatiønn (ULP)no. 46 of

2003 filed by the present petitioner. The order passed by the Labour Court on the application under section 30(2) filed under the MRTU & PULP Act, 1971 reads as under:-

"(a) the claim of complainant to reinstate him at interim stage stands rejected.

(b) Respondent no. 1 is directed to deposit the monthly wages of the Complainant in this Court from today till the final disposal of the complaint, and Complainant is not allowed to withdraw the said amount.

(c) Respondent no.2 is directed not to ask the Complainant to vacate the residential accommodation given to the Complainant till the final disposal of the complaint."

The Petitioner is aggrieved by clause (b) of the above stated order passed by the learned Judge of the Labour Court and the petitioner's revision application was dismissed on 8-12-2004 and, therefore, the said order came to be challenged in writ petition no. 3598/2005.

3. On 19-10-2006 the said petition came to be allowed by this Court and the order passed by the Industrial Court was set aside. The Revision application was restored and was directed to be decided within the period of 3 months after hearing the parties and the Industrial Court was also directed to pass reasoned order. Stay granted in favour of the petitioner for depositing the amount of monthly wages was continued. As noted earlier on remand the revision came to be dismissed by a reasoned order dated 26-2-2007 which is one of the impugned order now.

4. It was contended by Mr. Talsania, learned Senior Counsel that as per the resolution passed on 21-7-2002 the service of the respondent no.1, though he was initially appointed by the Petitioner came to be transferred to respondent no.2 and, therefore, it was respondent no.2 who was the de jure employer. This is disputed by Mr. Jamdar.

5. I, therefore, find that it would be in the interest of all the parties that the pending complaint is decided within a fixed period and all the parties are given full opportunity to lead oral as well as documentary evidence. Though the complaint filed by the respondent no.1 prima-facie speaks of employer-employee

relationship with respondent no.2, the directions of the Labour Court against the petitioner to deposit the monthly wages were stayed till the revision was decided by the impugned order and in any case Complainant was not allowed to withdraw, if the amount of wages deposited in the Labour Court.

6. Hence, the writ petition is disposed with a direction that the pending complaint shall be heard and decided as per law as expeditiously as possible and in any case within a period of 3 months from the receipt of Writ. The Learned Counsel for all the parties have given undertaking before me that they will go on with the trial of the complaint on day to day basis so that it is decided within the stipulated period of 3 months. Parties to appear before the Labour Court on 3-12-2007. The stay granted in favour of the present petitioner for depositing monthly wages shall be continued till the complaint is heard and decided by the Labour Court on merits. Consequently, the order passed by the Industrial Court stands set aside.

7. Writ to go to the Labour Court forthwith.

[B.H.MARLAPALLE,J.]